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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,679	09/08/2003	Edouard Serras	046190/268781	1233
826	7590	07/05/2006	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			DANIELS, MATTHEW J	
			ART UNIT	PAPER NUMBER
			1732	

DATE MAILED: 07/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/657,679

Applicant(s)

SERRAS ET AL.

Examiner

Matthew J. Daniels

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—The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

THE REPLY FILED 20 June 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 2,6 and 8-17.
Claim(s) withdrawn from consideration: _____.


AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See the enclosed response.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 3. NOTE: The new limitations would require further search and consideration of the independent and dependent claims, and additionally appear to be new matter as being unsupported by the specification.


CHRISTINA JOHNSON
PRIMARY EXAMINER
9/24/04

Response to Arguments

Applicant's arguments filed 20 June 2006 have been fully considered but they are not persuasive. The arguments appear to be on the following grounds:

- a) The rejection of Claim 16 is not indefinite because of the word “substantially”, and Applicant believes that there is no contradiction.
- b) the teachings of Brouard, Randel, and Revord cannot be combined because Brouard teaches the mixture is slowly compressed and crystallizes under pressure in the mold.
- c) The combinations of these patents neither teaches nor suggests the particular value of water content and the particular pressure applied. It is commonly admitted in the prior art that the crystallization begins as soon as the plaster is in contact with water. “Brouard teaches that the plaster crystallization continues under pressure in the mold till the end of the crystallization.”
- d) The present invention is based on a physical phenomenon that was not known, namely that the crystallization can be stopped or inhibited by a particular combination of water content and pressure. “Randel gives no information on the possibility to stop the plaster crystallization under pressure in a mold.”

These arguments are not persuasive for the following reasons:

- a) The Examiner maintains that a broadening has occurred. While Applicant's remarks appear to be drawn to the “substantially”, what would the ordinary artisan consider “substantially” to mean, and additionally, what is the scope sought in the independent claim? The Examiner maintains that it is not definite, and additionally, does not find support for the newly claimed limitation drawn to overcoming the 35 USC 112, second paragraph rejection.

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b-d) While Brouard does appear to teach that crystallization begins in the mold, the Examiner believes that the Applicant's remarks that "Brouard teaches that the plaster crystallization continues under pressure in the mold till the end of the crystallization." do not appear to consider Brouard's teaching at 6:43-48, which appears to contradict Applicant's arguments. If Brouard's method crystallizes to 100%, some crystallization clearly occurs, and is desired to occur, outside the mold, as in the claimed method. The slow compression of Brouard is designed to cause settling and removal of air, and does not appear to be designed to cause crystallization, as the remarks appear to assert. The Examiner asserts that Brouard would find no benefit in crystallizing the part into a solid piece while it contained air bubbles. Additionally, Applicant's remarks admit that crystallization begins as soon as the plaster is in contact with water. Does Applicant's method therefore not also crystallize at least partially in the mold? The claim language clearly appears to suggest that the mixing occurs prior to placement in the mold, and therefore some partial degree of crystallization appears to be inherent in Applicant's method if crystallization begins as soon as the plaster is in contact with water.

The motivation provided in the rejection has not been particularly argued, and in the absence of such arguments, is still believed to be valid. As noted above, the Examiner believes that the Applicant's remarks that "Brouard teaches that the plaster crystallization continues under pressure in the mold till the end of the crystallization" do not appear to consider Brouard's teaching at 6:43-48, which appears to contradict Applicant's arguments. Additionally, the Applicant's statement that "Randel gives no information on the possibility to stop the plaster crystallization under pressure in a mold" does not argue or assert that crystallization is not occurring in the same way disclosed in this application, but only that Randel has not disclosed

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the crystallization. The Examiner believes that the application of a pressure which fulfills the threshold found by Applicants provides evidence for a case of inherency by itself, or obviousness for this aspect of the invention when taken in combination.

Conclusion

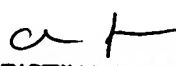
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Daniels whose telephone number is (571) 272-2450. The examiner can normally be reached on Monday - Friday, 8:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson can be reached on (571) 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJD 6/22/06




CHRISTINA JOHNSON
PRIMARY EXAMINER
6/22/06